

NEW APPLICATION

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS - Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MRQUEZ PETERSON

In the matter of:

DOCKET NO. S-21105A-20-0114

DAVID PAUL FRENCH, a single man,

NOTICE OF OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER TO CEASE
AND DESIST, ORDER FOR RESTITUTION,
ORDER FOR ADMINISTRATIVE
PENALTIES, AND ORDER FOR OTHER
AFFIRMATIVE ACTION

SUN STATE PROPERTY
PRESERVATION, LLC, an Arizona limited
liability company,

WATTENBERG, L.L.C., an Arizona limited
liability company,

WATTENBERG 1, LLC, a New Mexico
limited liability company,

Respondents.

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that Respondents David Paul French, Wattenberg, L.L.C., Sun State Property Preservation, LLC, and Wattenberg 1, LLC, have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

David Paul French directly or indirectly controlled Wattenberg, L.L.C., and Sun State Property Preservation, LLC, within the meaning of A.R.S. § 44-1999(B), so that he is jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as Sun State Property Preservation, LLC, and Wattenberg, L.L.C. for their violations of the antifraud provisions of the Securities Act.

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.

RESPONDENTS

2. At all relevant times, David Paul French ("French") is an unmarried man, and a resident of Arizona. French has not been registered with the Commission as a securities salesman or dealer.

3. French is a member of Sun State Property Preservation, LLC ("Sun State").

4. Sun State was organized on March 11, 2015, as an Arizona limited liability company. It is a member managed company with offices in Phoenix, Arizona. Sun State has not been registered with the Commission as a securities salesman or dealer.

5. French is a member of Wattenberg, L.L.C. ("Wattenberg").

6. Wattenberg was organized on January 28, 2019, as an Arizona limited liability company. It is a member managed company with offices in Phoenix, Arizona. Wattenberg has not been registered with the Commission as a securities salesman or dealer.

7. Wattenberg 1, LLC ("Wattenberg 1") was formed on October 15, 2012, as a limited liability company in New Mexico. It is a manager managed company with offices, at all relevant times, in Arizona and four other states. The company is still active and offered and/or sold securities to at least one Arizona investor. Wattenberg 1 has not been registered with the Commission as a securities salesman or dealer. Michael French a.k.a Jesse Michaels, French's brother, ("Michael") was the founding member of Wattenberg 1.

8. French, Sun State, Wattenberg, and Wattenberg 1 may be referred to collectively as "Respondents".

III.

FACTS

9. At least since February of 2018, Respondents offered and sold stock, units or shares (“Stock”) within or from Arizona. At least twenty-six (26) investors, from Arizona and thirteen (13) other states, invested at least \$851,030 through Wattenberg I, Sun State and Wattenberg. Those who were offered investments will be referred herein as “Offeree(s)” and those who invested will be referred to as “Investor(s)”.

10. Since about February of 2018, French contacted Offerees and/or Investors through emails and cold calls to solicit investments in BluBox Power Company, BluBox Energy, LLC¹, BluBox Energy International, LLC (“BluBox LLC”) and BluBox Energy International Inc. (“BluBox Inc.”).

11. BluBox Power Company and BluBox Energy may be referred to collectively as “Old BluBox”.

12. BluBox LLC and BluBox Inc. may be referred to collectively as “BluBox”.

13. French admitted that he offered Stock to about thirty (30) to forty (40) previous Old BluBox investors.

14. Old BluBox dissolved on April 26, 2017.

15. From February of 2018 through January of 2019, French joined Michael in offering Stock in the Old BluBox. During this time, Investors entered into purchase agreements (“Purchase Agreements”) involving seller Wattenberg I and signor Michael. French received compensation after the sale of Stock through the Purchase Agreements. Payments went through Wattenberg I to French’s company, Sun State.

16. Simultaneously, French offered Stock in BluBox by introducing BluBox’s team and attaching offering documents to the emails directed at Investors and/or Offerees.

17. On January 13, 2019, Michael passed away.

¹ The first “BluBox”, BluBox Energy, LLC was formed on May 18, 2012, and throughout the years it went through different variations which included: BluBox Energy, Inc and BluBox Power Company.

1 18. A couple of weeks after Michael's death, French formed Wattenberg and continued
2 to offer and sell Stock in Old BluBox, which had already been dissolved, and/or BluBox.

3 19. Between at least January 4, 2019, and at least May 22, 2019, French, through Sun
4 State and Wattenberg, sold Stock in Old BluBox through Purchase Agreements and signed them on
5 behalf of Sun State and Wattenberg.

6 20. The header of some of the Purchase Agreements stated "Wattenberg, LLC. Clearing
7 House c/o BluBox Energy International, Inc." Subsequently, at least some of those Investors received
8 stock certificates in BluBox Inc.

9 **French Made Misrepresentations and Omissions of Material Facts in the Emails that He Sent**
10 **to Offerees and/or Investors During the Offers and/or Sales of Securities**

11 21. French communicated with Offerees and/or Investors through emails.

12 22. On July 13, 2018, French sent an email to an Offeree(s) and/or Investor(s) where he
13 stated the following:

14 My name is David French with BluBox Energy...My background [sic] in stock and
15 real estate speculation. If and when you have questions you can call me directly. My
16 contact information is on the bottom of this email This [sic] should be enough for you
to ask the right questions and make an informed decision [sic]

17 23. However, French did not disclose that he was not associated with Old BluBox or
18 BluBox or that he was not employed by the companies.

19 24. French admitted that he was offering Stock through the July 13, 2018, email.

20 25. On the July 13, 2018, and on the April 4, 2018, emails French made the following
21 statements:

22 So, Ranchers Petroleum is out, and BluBox Energy International, LLC. was created.
23 When Greg Berning accepting [sic] the CEO chair. [sic] There was a culmination of
24 events that occurred in a short period of time that put BluBox into high gear. Some of
his contacts are the head attorney of the EPA...Mark Leavitt named president: Mark
25 is highly respected in the oil and gas corporate world...currently inking a deal on a
BluBox Strategic Equity Partnership for his \$1.6b oil deal so BluBox shareholders
26 benefit in the dividends and profit sharing...We now have 'Proof of Funds' with a
Japanese Equity firm. [sic] a Letter [sic] of credit with the world bank and forming

[sic] an Equity Partnership with an International Infrastructure Investment Company with Projects worldwide, led by Rajik Mohammed Aasim.

26. These were untrue statements for the following reasons:

a) Greg Berning was not the chief executive officer of BluBox or Old BluBox, and he did not have the head attorney of the EPA as a contact.

b) Mark Leavitt ("Leavitt"), chairman of the board of directors and founder of BluBox, stated that he was not well respected in the oil and gas world, nor was he "inking" a \$1.6 billion deal. BluBox did not have the money to finance such an expenditure.

c) Moreover, according to Leavitt neither BluBox nor the Old BluBox had "proof of funds" with a Japanese Equity firm, and there was no "International Infrastructure Investment Company with Projects worldwide" that was led by Rajik Mohammed Aasim.

27. On April 9, 2018, after receiving the email sent on April 4, 2018, at least one Investor sent \$22,000 to Wattenberg One, LLC². The investor then received an Old BluBox stock certificate for 12,000 stock dated October 3, 2018, even though by that time, Old BluBox had been dissolved, and its operations had slowed or ceased all together.

28. In another email generally addressed to "stockholders" dated November 23, 2018, French introduced himself as part of "the shareholder relations department of BluBox Energy International." He then requested for Investors and/or Offerees to provide him with their updated contact information so that he could "send the new stock certificates" and update their file with the current contact information. In that same email, French exclaimed that the stock price was "going to skyrocket when it goes Public on the NYSE."

29. At the bottom of the email, French listed the fictitious title of "Shareholder Relations" for "BluBox Energy International, LLC."

30. However, French omitted to inform Investors and/or Offerees that:

² Wattenberg One, LLC formed on November 16, 2010, and Michael French was a signatory on the company's bank accounts. Wattenberg One, LLC terminated on or about July 6, 2011. Wattenberg One and Wattenberg 1 have the same bank account.

1 a) He was not part of the shareholder relations department at "BluBox Energy
2 International."

3 b) BluBox LLC was not a legally organized company in any state.

4 c) BluBox LLC could not issue stock as it was not organized, and at that time it was
5 referred to by its officers as a limited liability company.

6 31. On November 28, 2018, and February 21, 2019, in other emails to Investors and/or
7 Offerees, French wrote the following:

8 The new stock certificate for BluBox Energy International, LLC. [sic]...should be
9 arriving shortly after the holidays...We are over funded with no debt [sic]... We have
10 access to \$1.5 Billion in cash it's not borrowed money. Its [sic] for stock and revenue
11 sharing...The \$5.50 stock with the founders shares and the 10% dividend are sold-
12 out. Congratulations to those of you who took advantage of the opportunity. Its [sic]
13 now \$7.50 per share pre IPO and a bargain at that...To assess the value of a company,
14 an independent auditor calculated all aspects of the company, from assets to
15 debt...Upon analyzing current assets and the fact that BluBox is Debt Free, The [sic]
16 stock value of approximately \$24.50 per share...The registration for the new
17 company (BluBox Energy International, LLC.) along with the audit of BluBox A
18 stockholders is being forwarded to begin processing for IPO on the NYSE. Eric
19 Stevenson has been working tirelessly to complete these tasks.

20 32. However, French failed to disclose and/or made the following untrue statements:

21 a) BluBox LLC was not organized to issue stock, and Empire Stock Transfer Inc., had
22 already informed BluBox LLC that transfer of stock at that time would have been impossible.

23 b) French failed to inform Investors and/or Offerees that BluBox LLC did not have
24 working capital, and Leavitt, who had limited resources, was the sole source of money.

25 c) BluBox LLC did not have access to \$1.5 Billion in cash.

26 d) BluBox LLC was not valued at \$7.50 per share, nor was French authorized to make
such projections.

e) An independent audit had not been done, and the company was not worth \$24.50 per
share.

f) BluBox did not have the funds to begin the IPO process.

g) BluBox was never a publicly traded company.

1 33. On February 18, 2019, French sent another email to Investors and/or Offerees enticing
2 them to purchase Stock. French made the following statements:

3 As of February 28th BluBox Power will be closed... All monies must be in by that
4 date to be eligible for the founders shares with 10% dividend. **The stock will never**
5 **be this low ever again. Take advantage of it.** Call me for the new wire instructions.
6 On February 27th Mark Leavitt and myself will be traveling to Empire Stock transfer
7 to start the process of the stock transfer from BluBox Power to BluBox Energy
8 International.

9 34. However, French failed to disclose to Investors and/or Offerees that Old BluBox was
10 dissolved, thus Stock in that company would have little to no value, and that BluBox LLC was not
11 organized to issue stock.

12 35. In his emails to Investors and/or Offerees, French gave himself the title of
13 "Shareholder Relations" for "BluBox Energy International, LLC," "BluBox Power Company, LLC,"
14 and "BluBox Energy International, Inc."

15 36. French admitted that he fabricated the "Shareholder Relations" title and used it simply
16 because "it sounded good."

17 **French did not Disclose his Background to Investors**

18 37. On August 29, 2002, Arizona Corporation Commission ("ACC") entered an order
19 against French under Docket No. S-03415A-01-0000, where he was ordered to cease and desist from
20 violating A.R.S. §§ 44-1841, 44-1842 and 44-1991. He was further ordered to pay administrative
21 penalties in the sum of \$220,000, and to jointly and severally to pay restitutions totaling \$883,720.78.
22 See Decision No. 65162. To date the restitution and penalty have been paid.

23 38. On June 3, 2005, French was found guilty of fraud and theft and was sentenced to 3.5
24 years to prison and 7 years to probation and ordered to pay restitution in the amount of \$869,773.62.
25 See *State of Arizona v. David Paul French*, CR2003-013117-002-DT.

26 39. On June 23, 2009, a Federal Tax Lien was recorded against French for \$9,841.41.

 40. On September 22, 2017, a Criminal Restitution Order was entered against him finding
that as of July 24, 2017, French owed the following amounts: \$816,306.37 in restitution and \$950.00
for warrant and probation services fees. See *Id.*

41. French admitted that in his communications with Investors and/or Offerees he did not disclose his criminal fraud and theft conviction or administrative actions against him.

Omissions in the PowerPoint Presentations that Were Sent to Offerees and/or Investors

42. French attached a PowerPoint presentation dated March 5, 2019 ("PowerPoint") to some of the emails that he sent to Investors and/or Offerees.

43. The PowerPoint included a slide titled "BluBox Energy International, LLC. Investment Offering." On that slide, the offering is described as:

a) "Three Million (\$3,000,000 USD) Total"

b) "9.85% Annual Interest, Paid Annually"

44. Upon information and knowledge, BluBox has not issued any interest, dividends or distributions to Investors.

45. French carelessly sent out a draft PowerPoint presentation. He admitted that he did not know what the amounts in the offering meant, and that he was aware that Investors and/or Offerees would rely on the documents that he provided to them.

46. French omitted to tell Investors and/or Offerees that the PowerPoint was not a final product and had not been properly reviewed for accuracy. Leavitt described the PowerPoint as a "rough copy starting documents...[that] were not legally, properly prepared or vetted."

47. Moreover, French omitted to tell Investors and/or Offerees that the figures in the slides were mere aspirations, not factual.

48. The PowerPoint included a slide of Leavitt's biography that stated the following:

Mark Leavitt has over 30 years experience [sic] as an insightful advisor and dedicated consultant within the financial industry. Mark possesses quick analytical ability combined with strong interpersonal communication skills and has had the privilege to work side-by-side with some of America's foremost and respected financial authorities on behalf of institutional and retail clients both public and private. He has built a wealth of invaluable financial experience and training, serving as an officer and registered representative at prominent national brokerage houses. (most [sic] recently at Merrill Lynch, as VP of Investments in their prestigious "Private Client Group" where he was awarded the coveted Merrill Lynch's Elite Director's Circle of Excellence Award. Some of Mark's expertise consist of financial and estate planning, asset Placement, ongoing risk management of wealthy individuals, partnerships,

1 public and private corporations, employee benefit plans, trusts, foundations and
2 associations. He has worked with some of America's premier asset managers
3 including U.S. Trust, Trust Company of the West, Provident Investment Council and
4 numerous national banks, insurance companies and fund managers. He has managed
5 individual transactions in excess of \$1,000,000,000.00.

6 49. However, the PowerPoint did not include, nor did French disclose to the Investors
7 and/or Offerees, the following:

8 a) That Leavitt was discharged from Merrill Lynch for "facilitat[ing] client investments
9 in private placement and private securities transactions away from Merrill Lynch."

10 b) That while working at Merrill Lynch and other firms, Leavitt received numerous client
11 complaints for unsuitable and unauthorized trading, unsuitable investments of unregistered securities,
12 churning, and mishandling of the client accounts.

13 c) That on April 18, 2001, the Maryland Securities Commissioner denied Leavitt's agent
14 registration application based on previous disciplinary actions against him. *See* Decision No. 2001-
15 0264.

16 d) That on May 18, 2004, New York Stock Exchange Division of Enforcement issued
17 Decision Number 04-72 and found Leavitt guilty of unsuitable trading, engaging in outside business
18 without receiving prior consent of his employer, making untrue statements to clients, marking certain
19 order tickets as unsolicited when they were actually solicited. Additionally, as a result of those
20 violations, Leavitt was barred from membership and from associating or being employed by any
21 member organization for four years.

22 e) That on May 4, 2011, a Federal Tax Lien was filed against Leavitt for \$43,685.

23 f) That on March 26, 2014, a default judgment for \$36,931.42 was entered against
24 Leavitt based on a private lawsuit by Keystone Investors, LLC. *See Keystone Investors, LLC vs.*
25 *Wellington Fin LLC, et. al.*, 49D03-1301-PL-003760, Marion Superior Court, Civil Division 3.
26

Wattenberg 1, Wattenberg, Sun State and BluBox Energy International Inc. Were Listed as the Seller in the Purchase Agreements

50. After French solicited Investors to purchase Stock, Investors entered into Purchase Agreements with Wattenberg 1, Wattenberg or Sun State.

51. From at least April 8, 2018, to at least May 22, 2019, Investors entered into Purchase Agreements and the signors of those agreements were French and Michael acting on behalf of Wattenberg, Wattenberg 1 and/ or Sun State.

52. French personally signed at least nine Purchase Agreements between at least January 4, 2019, through May 22, 2019.

53. The Purchase Agreements included the following declarations:

a) "...the Seller shall sell, convey, transfer, and deliver to the Purchaser Member Certificates representing such units, and the Purchaser shall purchase from the Seller the Company's Units in consideration of the purchase price set forth in this Agreement."

b) "Company [Old BluBox] is a company duly organized, validly existing and in good standing under the laws of the State of Nevada and has the company power and authority to carry on its business as it is now being conducted."

c) "Seller [Wattenberg 1, LLC, Wattenberg, LLC, or Sun State Property Preservation, LLC] is the lawful owner of the Units [in the company], free and clear of all security interests, liens, encumbrances, equities and other charges."

54. French failed to disclose and made the following untrue statements in the Purchase Agreements:

a) That there was a probability that Investors would not receive stock certificates in the Old BluBox.

b) Old BluBox was dissolved, it slowed or ceased all operations, and there was little to no value in the company.

1 c) Sun State or Wattenberg were not lawful owners of Stock in Old BluBox. The official
2 records of the transfer agent, and those that were received from French, show that French, Sun State
3 and Wattenberg did not hold any shares of the Old BluBox.

4 55. Investors sent at least \$409,880 to Wattenberg 1, at least \$283,400 to Wattenberg, and
5 at least \$111,000 to Sun State, in exchange for purchasing Stock in Old BluBox.

6 56. French is the signatory of Wattenberg's and Sun State's bank accounts.

7 **Investors' Money and Stock Certificates**

8 57. French, Wattenberg 1, Wattenberg and Sun State received Investors' money after the
9 sale of the Stock.

10 58. From February 1, 2018, to December 19, 2018, Wattenberg 1 sent to Sun State at least
11 \$182,950, the vast majority of which, if not all, was Investors' money. French used the Sun State
12 business bank account as a personal bank account.

13 59. After sending money to Wattenberg 1, Sun State or Wattenberg, and entering into the
14 Purchase Agreements, some Investors received common stock certificates in Old BluBox, a dissolved
15 company, or BluBox. Others did not receive any stock certificates.

16 a) About eight Investors received common stock in Old BluBox.

17 b) About five Investors received common stock in BluBox, however, the Purchase
18 Agreements for those Investors stated that they would receive Stock in the Old BluBox.

19 60. Investors collectively invested at least \$851,030 and have not received any money
20 back.

21 **IV.**

22 **VIOLATION OF A.R.S. § 44-1841**

23 **(Offer or Sale of Unregistered Securities)**

24 61. From on or about February of 2018, Respondents French, Wattenberg 1, and Sun State
25 offered or sold securities in the form of Stock in the Old BluBox and/or BluBox within or from Arizona.

62. From on or about January of 2019, Respondent Wattenberg offered or sold securities in the form of Stock in Old BluBox and/or BluBox within or from Arizona.

63. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

64. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

65. Respondents French, Wattenberg, Wattenberg 1 and Sun State offered or sold securities in the form of Stock in Old BluBox and/or BluBox within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

66. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

67. In connection with the offer or sale of securities within or from Arizona, Respondents directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; and/or (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon Offerees and Investors. Respondents' conduct includes, but is not limited to, the following:

a) Respondents French, Wattenberg and Sun State made untrue statements that Wattenberg or Sun State were the lawful owners of the Stock in Old BluBox.

b) Respondent French made untrue statements to Investors in the emails while offering Stock.

1 request for hearing must be in writing and received by the Commission within 10 business days after
2 service of this Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the
3 request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona
4 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the
5 Commission's Internet web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

6 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20
7 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or
8 ordered by the Commission. If a request for a hearing is not timely made the Commission may, without
9 a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for
10 Hearing.

11 Persons with a disability may request a reasonable accommodation such as a sign language
12 interpreter, as well as request this document in an alternative format, by contacting Carolyn D. Buck,
13 ADA Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov. Requests should
14 be made as early as possible to allow time to arrange the accommodation. Additional information
15 about the administrative action procedure may be found at
16 <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>

17 X.

18 ANSWER REQUIREMENT

19 Pursuant to A.A.C. R14-4-305, if a Respondent requests a hearing, the requesting respondent
20 must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control, Arizona
21 Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days
22 after the date of service of this Notice. Filing instructions may be obtained from Docket Control by
23 calling (602) 542-3477 or on the Commission's Internet web site at
24 <http://www.azcc.gov/divisions/hearings/docket.asp>.

25 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
26 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a

1 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
2 addressed to Margaret Lindsey.

3 The Answer shall contain an admission or denial of each allegation in this Notice and the
4 original signature of the answering respondent or respondent's attorney. A statement of a lack of
5 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not
6 denied shall be considered admitted.

7 When the answering respondent intends in good faith to deny only a part or a qualification of
8 an allegation, the respondent shall specify that part or qualification of the allegation and shall admit
9 the remainder. Respondent waives any affirmative defense not raised in the Answer.

10 The officer presiding over the hearing may grant relief from the requirement to file an Answer
11 for good cause shown.

12 Dated this 1st day of May, 2020.

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15 Wendy Coy
16 Assistant Director of Securities
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